

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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MARK HILL,

Plaintiff,

v.

Case No. 05-CV-71913-DT

CITY OF DETROIT et al.,

Defendants.

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**ORDER GRANTING DEFENDANTS' "MOTION TO ALLOW FILING OF NOTICE OF  
THIRD-PARTY FAULT" AND GRANTING IN PART PLAINTIFF'S "MOTION  
COMPELLING DEFENDANT-OFFICER ROBERT TROZAK TO APPEAR  
FOR SCHEDULED ORAL DEPOSITION"**

Pending before the court is Defendants' "Motion to Allow Filing of Notice of Third-Party Fault" and Plaintiff Mark Hill's "Motion Compelling Defendant-Officer Robert Trozak to Appear For Scheduled Oral Deposition." The court held a hearing on these motions on November 17, 2005. For the reasons stated more fully on the record, the court will grant Defendants' motion and will grant in part Plaintiff's motion.

In Defendants' "Motion to Allow Filing of Notice of Third-Party Fault," Defendants request that the court allow Defendants to file a "Notice of Third-Party Fault" as to Plaintiff's state law claims. (Defs.' Mot. at 3.) At the hearing, the court indicated that it would grant Defendants' motion and thus inquired of Plaintiff's counsel what remedy would alleviate any prejudice that Plaintiff might experience as a result of the court's grant of Defendants' motion. Plaintiff's counsel stated in response that he would like the opportunity to depose Elaine White. Accordingly, the court will allow Plaintiff until

**December 9, 2005** to conclude all discovery, including the deposition of Ms. White.

In Plaintiff's "Motion Compelling Defendant-Officer Robert Trozak To Appear For Scheduled Oral Deposition," Plaintiff requests that the court compel Defendant-Officer Robert Trozak to appear for his oral deposition.<sup>1</sup> During the hearing, the court informed counsel that Defendant-Officer Trozak should be told that this date is firm and should be made aware that he could potentially face sanctions up to and including being defaulted pursuant to Federal Rule of Civil Procedure 37 if he fails to appear. The court, however, will not grant the portion of Plaintiff's motion that relates to Plaintiff's attorneys fees and costs in bringing the motion and holding Defendant-Officer Trozak in contempt of court.

Accordingly, IT IS ORDERED that Defendants' "Motion To Allow Filing Of Third-Party Fault" [Dkt. # 9] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's "Motion Compelling Defendant-Officer Robert Trozak To Appear For Scheduled Oral Deposition" [Dkt. # 10] is GRANTED IN PART. IT IS GRANTED with respect to the request that Defendant Trozak be ordered to appear at his scheduled deposition. IT IS DENIED in all other respects.

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<sup>1</sup>During the hearing, Plaintiff's counsel represented to the court that Defendant Officer Robert Trozak's deposition has been rescheduled on two occasions and his upcoming deposition date is the third date that has been scheduled. Defendants also made this representation in their response to Plaintiff's motion. (See Defs.' Resp. at ¶ 6.)

IT IS ALSO ORDERED that the court will conduct an in-person status conference on **December 15, 2005 at 3:30 p.m.**

S/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: November 23, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 23, 2005, by electronic and/or ordinary mail.

S/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522